

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHRISTIAN CASEY LLC, a New York  
Limited Liability Company d/b/a SEAN  
JOHN; and STUDIO IP HOLDINGS LLC,  
A Delaware Limited Liability Company  
d/b/a ROCAWEAR,

Index No.: 08 CV 00870 (GBD)

Plaintiffs,

**-against-**

**DEFENDANT A & E STORES, INC.'S  
ANSWER TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT**

A & E STORES, INC., a New Jersey  
Corporation; FORMAN MILLS, INC.,  
a Pennsylvania Corporation; FAT ALBERT'S  
WAREHOUSE, INC., a New York Corporation;  
ALBERT SROUR, an individual; SPOT INC.,  
an unknown business entity; SAPMAN  
SPORTSWEAR, an unknown business entity;  
JAREL ENTERPRISES, an unknown business  
entity; CAVALIER SPORTSWEAR INC., an  
unknown business entity; SABS II INC., an  
unknown business entity; GREAT VALUE INC.,  
an unknown business entity; NEW YORK  
OFFPRICE, an unknown business entity; D&N  
SALES, an unknown business entity; ALMOST  
NOTHING INC., an unknown business entity;  
CAPICO, an unknown business entity; VOLUME  
APPAREL, an unknown business entity; CA  
OFFPRICE, an unknown business entity; M.E.  
SALES CORP., an unknown business entity;  
BARCODE, an unknown business entity;  
FACTORY OVERRUNS, INC., an unknown  
Business entity; TOWELLE CORP., an unknown  
Business entity; TC FASHIONS INC., an unknown  
Business entity; ALL-WAYS, a Washington  
Corporation; and DOES 1-10, inclusive,

Defendants.

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Defendant A& E Stores, Inc. ("A&E"), by its attorneys, Sills Gross & Cummis P.C., as  
and for its Answer to plaintiffs' First Amended Complaint states as follows:

1. In response to paragraph “1” of plaintiffs’ Complaint, admits that plaintiffs purport to bring their claims under certain Federal and State laws but denies that such claims have any merit.

2. Denies knowledge or information as to the allegations set forth in paragraph “2” of plaintiffs’ Complaint, except admits that this court has jurisdiction over A&E.

3. Denies the allegations set forth in paragraph “3” of plaintiffs’ Complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “4” of plaintiffs’ Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “5” of plaintiffs’ Complaint.

6. Denies the allegations set forth in paragraph “6” of plaintiffs’ Complaint, except admits that A&E’s principal place of business is in Teterboro, New Jersey.

7. In response to paragraph “7” of plaintiffs’ Complaint admits that A&E and/or its affiliates operate stores in the listed states.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of plaintiffs’ Complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of plaintiffs’ Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of plaintiffs’ Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” of plaintiffs’ Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of plaintiffs’ Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of plaintiffs’ Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the Complaint.

15. Denies the allegations set forth in paragraph “15” of plaintiffs’ Complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16” of plaintiffs’ Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of plaintiffs’ Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “18” of plaintiffs’ Complaint.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19” of plaintiffs’ Complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of plaintiffs’ Complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “21” of plaintiffs’ Complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of plaintiffs’ Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “23” of plaintiffs’ Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “24” of plaintiffs’ Complaint.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “25” of plaintiffs’ Complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “26” of plaintiffs’ Complaint.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “27” of plaintiffs’ Complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of plaintiffs’ Complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of plaintiffs’ Complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of plaintiffs’ Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of plaintiffs’ Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” of plaintiffs’ Complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of plaintiffs’ Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “34” of plaintiffs’ Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “35” of plaintiffs’ Complaint.

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “36” of plaintiffs’ Complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37” of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “38” of the Complaint.

39. Denies the allegations set forth in paragraph “39” of plaintiffs’ Complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “40” of plaintiffs’ Complaint.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “41” of plaintiffs’ Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “42” of the Complaint.

43. Denies the allegations set forth in paragraph “43” of the Complaint.

44. Denies the allegations set forth in paragraph “44” of the Complaint.

45. In response to paragraph “45” of plaintiffs’ Complaint, repeats and realleges each and every response heretofore made as if more fully set forth herein.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of plaintiffs’ Complaint.

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “47” of the Complaint.

48. Denies the allegations set forth in paragraph “48” of plaintiffs’ Complaint.
49. Denies the allegations set forth in paragraph “49” of the Complaint.
50. Denies the allegations set forth in paragraph “50” of the Complaint.
51. Denies the allegations set forth in paragraph “51” of the Complaint.
52. Denies the allegations set forth in paragraph “52” of the Complaint.
53. Denies the allegations set forth in paragraph “53” of the Complaint.
54. Denies the allegations set forth in paragraph “54” of the Complaint.
55. Denies the allegations set forth in paragraph “55” of the Complaint.
56. In response to paragraph “56” of plaintiffs’ Complaint, repeats and realleges each and every response heretofore made as if more fully set forth herein.
57. Denies the allegations set forth in paragraph “57” of the Complaint.
58. Denies the allegations set forth in paragraph “58” of the Complaint.
59. Denies the allegations set forth in paragraph “59” of the Complaint.
60. Denies the allegations set forth in paragraph “60” of the Complaint.
61. Denies the allegations set forth in paragraph “61” of the Complaint.
62. Denies the allegations set forth in paragraph “62” of the Complaint.
63. Denies the allegations set forth in paragraph “64” of plaintiffs’ Complaint.
64. In response to paragraph “64” of plaintiffs’ Complaint, repeats and realleges each and every response heretofore made as if more fully set forth herein.
65. Denies the allegations set forth in paragraph “65” of the Complaint.
66. Denies the allegations set forth in paragraph “66” of the Complaint.
67. Denies the allegations set forth in paragraph “67” of the Complaint.
68. Denies the allegations set forth in paragraph “68” of the Complaint.

69. Denies the allegations set forth in paragraph “69” of the Complaint.

70. Denies the allegations set forth in paragraph “70” of the Complaint.

71. Denies the allegations set forth in paragraph “71” of the Complaint.

72. Denies the allegations set forth in paragraph “72” of the Complaint.

73. Denies the allegations set forth in paragraph “73” of the Complaint.

74. In response to paragraph “74” of plaintiffs’ Complaint, repeats and realleges each and every response heretofore made as if more fully set forth herein. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “74” of plaintiffs’ Complaint.

75. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “75” of plaintiffs’ Complaint.

76. Denies Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “76” of the Complaint.

77. Denies the allegations set forth in paragraph “77” of the Complaint.

78. Denies the allegations set forth in paragraph “78” of the Complaint.

79. Denies the allegations set forth in paragraph “79” of the Complaint.

80. Denies the allegations set forth in paragraph “80” of the Complaint.

81. Denies the allegations set forth in paragraph “81” of the Complaint.

82. Denies the allegations set forth in paragraph “821” of the Complaint.

#### **FIRST AFFIRMATIVE DEFENSE**

83. Plaintiffs’ Complaint fails to state causes of action upon which relief may be had.

#### **SECOND AFFIRMATIVE DEFENSE**

84. A&E has at all times acted in the utmost good faith and without knowledge of any rights plaintiffs may have in the claimed trademarks.

**THIRD AFFIRMATIVE DEFENSE**

85. Plaintiffs' claims are barred, in whole or in part. Each plaintiff failed to protect its trademark.

**FOURTH AFFIRMATIVE DEFENSE**

86. Plaintiffs' claims are barred by the applicable Statute of Limitations.

**FIFTH AFFIRMATIVE DEFENSE**

87. Plaintiffs' claims are barred by the doctrine of laches.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs have abandoned any and all rights through failure to exercise quality control over the license, manufacture, distribution and sale of items bearing the trademarks.

**CROSS-CLAIMS**

88. To the extent A&E is found liable for any portion of the claims alleged in the plaintiffs First Amended Complaint regarding garments purchased from defendants Spot Inc., Sapman Sportswear, Jarel Enterprises, Cavalier Sportswear Inc., Sabs II Inc., Great Value Inc., New York Offprice, D&N Sales, Almost Nothing Inc., Capico, Volume Apparel; CA Offprice, M.E. Sales Corp., Barcode, Factory Overruns, Inc., Towelle Corp., TC Fashions Inc., and All-Ways or that A&E incurs any other costs or expenses in connection with this litigation, Spot Inc., Sapman Sportswear, Jarel Enterprises, Cavalier Sportswear Inc., Sabs II Inc., Great Value Inc., New York Offprice, D&N Sales, Almost Nothing Inc., Capico, Volume Apparel; CA Offprice, M.E. Sales Corp., Barcode, Factory Overruns, Inc., Towelle Corp., TC Fashions Inc., and All-Ways are liable to A&E through contract, applicable state law and equitable principles.



89. Accordingly, A&E is entitled to judgment against Spot Inc., Sapman Sportswear, Jarel Enterprises, Cavalier Sportswear Inc., Sabs II Inc., Great Value Inc., New York Offprice, D&N Sales, Almost Nothing Inc., Capico, Volume Apparel; CA Offprice, M.E. Sales Corp., Barcode, Factory Overruns, Inc., Towelle Corp., TC Fashions Inc., and All-Ways for indemnification and contribution.

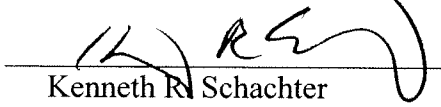
**WHEREFORE**, A&E demands judgment:

- a. dismissing the Complaint;
- b. that Spot Inc., Sapman Sportswear, Jarel Enterprises, Cavalier Sportswear Inc., Sabs II Inc., Great Value Inc., New York Offprice, D&N Sales, Almost Nothing Inc., Capico, Volume Apparel; CA Offprice, M.E. Sales Corp., Barcode, Factory Overruns, Inc., Towelle Corp., TC Fashions Inc., and All-Ways are liable to A&E for indemnification and contribution;
- c. all together with costs and disbursements, including reasonable attorney's fees, and such other and further relief as the Court finds just and proper.

Dated: New York, New York  
February 4, 2009

Respectfully submitted,

**SILLS CUMMIS & GROSS P.C.**  
Attorneys for Defendant  
**A & E STORES, INC.**

By:   
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